

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. RITA KEIM-BACON, an individual,)	
)	
)	
)	
Plaintiff,)	
)	
-vs-)	Case No.
)	
2. STRYKER CORPORATION,)	Jury Trial Requested
a Michigan Corporation.)	Attorney Lien Claimed
)	
Defendant.)	

COMPLAINT

Plaintiff, Rita Keim-Bacon, states and alleges the following in support of her allegations against the Defendant, Stryker Corporation:

I.

JURISDICTION

1) Plaintiff is an individual person residing in the City of Sand Springs and domiciled in the State of Oklahoma. Defendant is a Michigan Corporation with its World Headquarters in Kalamazoo, Michigan. Pursuant to 28 U.S.C. §1332, complete diversity of citizenship exists between the Parties and the amount in controversy is in excess of \$75,000, thereby vesting this Court with diversity of citizenship jurisdiction.

II.

VENUE

2) Venue is proper with this Court because pursuant to 28 U.S.C. §1391 (b) (2), a substantial part of the events, acts, and omissions occurred within the United States District Court for The Northern District of Oklahoma in that the Defendant marketed, distributed and sold prosthetic ankle replacements to physicians in Oklahoma who then implanted such devices

into their patients, including this Plaintiff. Plaintiff's physician, Dr. Raymond. L. Smith, DPM surgically implanted one of these devices into the Plaintiff at OU Medical Center, Edmond, Oklahoma. Some years later, the device was removed at Oklahoma Surgical Hospital in Tulsa, Oklahoma by Dr. James Davies. All these acts occurred in this Judicial District.

III.

FIRST CLAIM FOR RELIEF: MANUFACTURER'S PRODUCT LIABILITY

3) Plaintiff incorporates here all her preceding allegations, and further states and alleges that on or about October 21, 2014, podiatrist physician, Dr. Raymond L. Smith, DPM, surgically implanted into the Plaintiff's right leg, a STRYKER SCANDINAVIAN TOTAL ANKLE REPLACEMENT, known as "STAR."

4) On or about January 31, 2021, Plaintiff began experiencing symptoms of instability, inability to bear weight, pain, new grinding in the device and noise in her right ankle. On March 26, 2021, the United States Food and Drug Administration ("FDA") issued a Safety Communication about the STAR device, attached as Exhibit 1 and fully incorporated by reference here.

5) Plaintiff's symptoms were consistent with the FDA communication, and as a result, the device was removed from her right leg on June 29, 2021.

6) Plaintiff incorporates here all her preceding allegations and further states:

- a. The STAR ankle device implanted in her right leg was in a defective condition;
- b. The STAR device was unreasonably dangerous beyond the contemplation of the Plaintiff's knowledge about the uses and characteristics of the device.
- c. The STAR device proximately caused Plaintiff the personal injury and economic damages pursuant to OUJI 2d 4.1 jury instruction.
- d. The Defendant is therefore strictly liable to the Plaintiff.

IV.
SECOND CLAIM FOR RELIEF: NEGLIGENCE, GROSS NEGLIGENCE,
AND NEGLIGENCE *PER SE*

7) Plaintiff incorporates here, all her preceding allegations and further states and alleges that the Defendant owed her a legal duty of ordinary care to design, manufacture and sell the STAR ankle in a safe and careful manner. Informed by the FDA's safety communication, the Defendant breached that duty to the Plaintiff, which proximately caused her to suffer a personal injury and economic damages from the STAR device failure and related to the five and one-half hour surgical removal of the device. Defendant is therefore liable to the Plaintiff under a theory of negligence, gross negligence, and negligence *per se*.

WHEREFORE Plaintiff prays that the Court enter judgment in excess of \$75,000.00, plus punitive damages as the evidence will support, and costs and attorney fees as allowed by law.

Respectfully submitted,

/s/ G. Steven Stidham

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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2022, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to counsel of record.

/s/ G. Steven Stidham

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